

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

HOWARD LAWRENCE
ELLSWORTH, III, et al.,

Plaintiffs,

v.

DALLAS TEXAS DEPARTMENT OF
VETERAN AFFAIRS, et al.,

Defendants.

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CIVIL ACTION NO. 4:23-CV-00710-
SDJ-AGD

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Before the Court is the Report and Recommendation of the United States Magistrate Judge (“Report”), this matter having been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. The Report recommends that the Government’s Motion to Dismiss (Dkt. #33) be granted based on Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction and Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim for which relief can be granted. The Report further recommends that Plaintiff’s pending motions (Dkt. #47; Dkt. #52; Dkt. #54; Dkt. #57; Dkt. #61; Dkt. #62) be denied as moot. The Report also recommends that Plaintiff’s case be dismissed with prejudice, and any request for relief not addressed by the Report be denied as moot.


On March 21, 2025, Plaintiff filed a Motion for Leave to File Objections to the Magistrate Judge’s Report and Recommendation (Dkt. #67) along with timely

objections to the Report (Dkt. #68). Plaintiff's Motion for Leave to File Objections to the Magistrate Judge's Report and Recommendation is hereby **GRANTED** and Plaintiff's objections are deemed as filed on March 21, 2025. The Court has conducted a de novo review of Plaintiff's objections (Dkt. #68) and the portions of the Report to which Plaintiff specifically objects. Having done so, the Court is of the opinion that the findings of the Magistrate Judge are correct and adopts the Magistrate Judge's Report as the findings of the Court.

It is therefore **ORDERED** that the Government's Motion to Dismiss (Dkt. #33) is **GRANTED** based on Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction and Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim for which relief can be granted. It is further **ORDERED** that Plaintiff's pending motions (Dkt. #47; Dkt. #52; Dkt. #54; Dkt. #57; Dkt. #61; Dkt. #62) are **DENIED as moot**. It is further **ORDERED** that Plaintiff's Motion for Leave to File Objections to the Magistrate Judge's Report and Recommendation (Dkt. #67) is **GRANTED**. It is further **ORDERED** that Plaintiff's case is **DISMISSED WITH PREJUDICE**.

It is finally **ORDERED** that any request for relief not addressed by the Report (Dkt. #66) is **DENIED as moot**.

So ORDERED and SIGNED this 28th day of March, 2025.


SEAN D. JORDAN
UNITED STATES DISTRICT JUDGE